1950

File No. B. Irrigation/50

Legal Deptt.

B BRANCH

Subject:— L A. Bill No. XLIV of 1950

A Bill to amend the Bombay Irrigation Act, 1879

Bom. Act No. LIX of 1950

P.B.4/E

File No. B. Irrigation/50

Gen. 124

856-B

Legal Department.

In his note dated the 6th June 1950, Secretary, P.W.D. marked the case for discussion with a view to avoid delay. As pointed out by Secretary P.W.D. there is no decision of Government on several points which are involved in the case. In order to facilitate the discussion a draft was prepared which is at page 83 of the file. The draft prepared was merely tentative and was for the purpose of facilitating discussion. Various points raised in the note of the Office and the note of the Secretary, P.W.D. have been considered and the appended draft contains alterations regarding these points. The main changes in the draft are :-

(1) A definition of "lands under irrigable command of a canal" has been added. It is on the lines suggested by Secretary, P.W.D.

(2) Under section 51, the exemption from betterment charges to holders of small areas has been omitted as suggested by the Secretary, P.W.D.

(3) It is made clear under the new section 52 that the betterment charges shall be increased in proportion to the amount by which the value of the land on completion date is likely to exceed the value of the land on the construction date. An 'explanation' has been added empowering Government to notify the completion date and the construction date.

(4) As suggested by the Secretary, P.W.D., in Sec. 56A it is provided that the betterment charges shall be payable on such date as the Collector may fix.

(5) Provisions regarding the irrigation cess

K.S.R. 22/6

have been added. These provisions are on the lines of section 135 of the Bombay Land Revenue Code.

(6) The P.W.D. note suggests that it is not intended that the betterment charges and the irrigation cess will have to be levied in the case of lands irrigated from second-class water-works. An amendment of section 75 of the Bombay Irrigation Act, (Bom.VII of 1879) which was proposed in the original draft has, therefore, been omitted.

J.R.Dhurandhar.
26/6.

SRT/21.6.

Legal Department.

A revised draft Bill is sent herewith, in which the draft amendments required in sections 73 and 75 of the Bombay Irrigation Act, 1879, have been incorporated.

J.R.Dhurandhar.
9/9.

Additional Secretary to Government.

U.R. to P.W.D.No. 12884, dated the 9th September 1950.

SNT/21.6.

IMMEDIATE.

No.242-L.
Legal Department,
Council Hall, Poona, 2nd November 1950.

From

Shri J.R.Dharmadhar,
Additional Secretary to the Government of Bombay,
Legal Department.

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay Irrigation (Amendment) Bill, 1950.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellency the Governor the authentic copy of the Bombay Irrigation (Amendment) Bill, 1950, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 25th and the 26th October 1950, respectively.

2. The subject-matter of the Bill falls under entries 14, 17, 18, 45 and 49 in List II and entry 6 in List III in the Seventh Schedule to the Constitution of India. As the provisions of new section 56B in clause 4 of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, which is an existing law relating to entry 6 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution of India.

3.....

3. I also forward herewith six copies of each of the

		items
1.	Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	Nos. 1 and
2.	Bill as read for the third time and passed by the Bombay Legislative Council.	2 and two
3.	Extracts from the proceedings of the Bombay Legislative Assembly dated the 19th, 24th and 25th October 1950 and of the Bombay Legislative Council dated the 26th October 1950.	copies of item

No. 3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

Yours faithfully,

J.R.Dhurandhar.
2/11.

Additional Secretary to Government.

Through:

The Secretary to the Government of Bombay,
Public Works Department.

SRT/21.6.

No. G.S.3489.

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

TO The Secretary to the Bombay Legislature Department,

Council Hall, Bombay 1.

Subject: The Bombay Irrigation (Amendment) Bill,1950.

Sir,

With reference to the Bombay Irrigation (Amendment) Bill, 1950, which was passed by the Bombay Legislative Assembly and the Bombay Legislative Council on October 25 and 26, 1950, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the Chairman, that as the provisions of new section 56B in clause 4 of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, which is an existing law relating to entry 6 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution of India. His Excellency the Governor is accordingly pleased, under article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,

L. M. Madkarni.

Secretary to the Governor of Bombay.

* * * * * *

No. G.S. - 3490.
Office of the Secretary to the Governor of Bombay.
Government House, Bombay 4,
November 18,1950.

Copy forwarded with compliments for information to :-

(1) The Additional Secretary to Government, Legal Department, with reference to his letter No. 242-L, dated November 2, 1950;
(2) The Secretary to Government, Public Works Department, with reference to his endorsement No. 8839/36-I.B.(II)., dated November 14, 1950.

Sd/-

Secretary to the Governor of Bombay.

SHT/21.6.

No.G.S. 1.

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

TO The Additional Secretary to Government,

Legal Department.

GOVERNMENT HOUSE.

BOMBAY.(6). January 3, 1951.

Subject: The Bombay Irrigation (Amendment) Bill, 1950.

Sir,

With reference to the correspondence ending with your letter No. 17607, dated December 12, 1950, I am to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Irrigation (Amendment) Bill, 1950, on December 28, 1950.

Yours faithfully,

Sd/-

for Secretary to the Governor of Bombay.

SMT/21.6.

NO. G.S. 47.

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

TO

The Additional Secretary to Government,

Legal Department.

GOVERNMENT HOUSE,

BOMBAY(6), January 6, 1951.

Subject: The Bombay Irrigation (Amendment) Bill, 1950.

Dear Sir,

In continuation of my letter No. G.S.-2, dated January 3, 1951, I am directed to forward herewith the authentic copy of the Bombay Irrigation (Amendment) Bill, 1950, with the President's assent signified thereon.

Yours faithfully,

Sd/-

for Secretary to the Governor of Bombay.

SMT/21.6.

Asia.
Publication of the
Bombay Irrigation (Amendment) Act,1950.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 350.
Bombay Castle, 6th January 1951.

Letter to the Secretary to the Governor, No. 242-L, dated the 2nd November 1950.

Letter from the Secretary to the Governor, No. G.S. 1, dated the 2nd January 1951.

"With reference to the correspondence ending with your letter No. 17607, dated December 12, 1950, I am to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Irrigation (Amendment) Bill, 1950, on December 28th 1950."

RESOLUTION :- The law should be published as Bombay Act, No. LIX of 1950, in the Bombay Government Gazette dated the 6th January 1951.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the Translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Public Works Department with reference to the Memorandum from that Department No. 8839/36-I B (II), dated the 23rd September 19

By order of the Governor of Bombay

K.J. PATHARE,
Assistant Secretary to Government

To

The Manager Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department).
Etc.

REGISTERED No. B-1

The
Bombay Government Gazette
PUBLISHED BY AUTHORITY

WEDNESDAY, 27TH SEPTEMBER 1950.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART V

[To be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations to be published in the " Bombay Government Gazette ". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. XLIV OF 1950.

A Bill to amend the Bombay Irrigation Act, 1879.

Bom. VII of 1879. WHEREAS it is expedient to amend the Bombay Irrigation Act, 1879, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Bombay Irrigation (Amendment) Act, 1950. Short title.

Amendment of section 3 of Bom. VII of 1879.

2. In section 3 of the Bombay Irrigation Act, 1879 (hereinafter called the said Act), after clause (6) the following shall be inserted, namely :— Bom. VII of 1879.

"(6A) 'lands under irrigable command of a canal' mean such lands as are irrigated or capable of being irrigated from the canal, being under its command and shall include also such lands as are or shall be deemed to be irrigated within the meaning of section 48 ; ".

Amendment of heading after section 43 of Bom. VII of 1879.

3. After section 43 of the said Act, for the heading "Part VI—Of Water-Rates" the following shall be substituted, namely :—

"PART VI.

Water rates, betterment charges and irrigation cess ".

Insertion of new sections 49 to 56-F in Bom. VII of 1879.

4. After section 48 of the said Act, the following headings and sections shall be inserted, namely :—

"*Betterment Charges.*

Scheme of irrigable lands under command and betterment charges on construction or improvement etc. of a canal.

49. When the construction of a new canal or the improvement or extension of an existing canal is undertaken, the State Government shall direct an officer empowered in this behalf to prepare a scheme showing the lands under the irrigable command of the canal and the betterment charges leviable on such lands.

Publication of scheme and notice to owners and persons interested.

50. (*1*) The scheme so prepared shall be published in the *Official Gazette* and in such other manner as may be prescribed by rules.

(*2*) The officer empowered under section 49 shall also give notice to the persons known or believed to be the owners of or interested in the lands under irrigable command of the canal requiring them to appear before him either personally or by agent at a time and the place therein mentioned (such time not being earlier than fifteen days from the date of the notice) to state their objections, if any,—

(*a*) to the inclusion of the lands in the scheme as the lands under irrigable command of the canal, and

(*b*) to the imposition and recovery of the betterment charges on such lands.

Inquiry and award.

51. On the date fixed under section 50 or on such other date to which the inquiry may be adjourned, the officer concerned after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after hearing the objections, if any, stated by the persons as required by notice under section 50 make an award. The award shall specify— Bom. V of 1879.

(*a*) the lands under irrigable command of the canal,

(*b*) the increase in value of such lands by the completion of the construction of a new canal or the improvement or extension of an existing canal,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the date from which such betterment charges shall be leviable :

Provided that no betterment charges shall be leviable in respect of any land which is unarable (kharaba).

Increase in value and betterment charges.

52. The increase in value on account of the completion of a new canal or the improvement or extension of an existing canal shall be the amount by which the value of the land on the completion date is likely to exceed the value of the land on the construction date and the betterment charges shall be one-half of such increase in value.

Explanation.—For the purposes of this section the State Government shall, by notification in the *Official Gazette*, specify—

(*a*) the date of the commencement of construction of any work in connection with the construction or improvement or extension of a canal, as the construction date ;

(*b*) the date of completion of the construction, improvement or extension of a canal as the completion date.

Appeals to the Collector.

53. (*1*) Any person aggrieved by the award may, within sixty days from the date of the award, appeal to the Collector.

Bom. V of 1879.

(*2*) The provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, shall apply to such appeals as if the officer empowered under section 49 was a Revenue Officer and the Collector was his immediate superior.

Revision by State Government.

54. The State Government may call for and examine the record of any inquiry under section 51 or of the proceedings in appeal under section 53 for the purpose of satisfying itself of legality or regularity of such inquiry or proceedings and may modify or reverse the award or the decision of the Collector.

Finality of orders of State Government, Collector's decision and award.

55. Any order passed by the State Government in revision under section 54 and subject to such order, the decision of the Collector on appeal under section 53, and subject to the order of the State Government and the decision of the Collector on appeal, the award made under section 51 shall be final.

Betterment charges to be first charge on land next to land revenue.

56. From the date specified in the award as the date from which the betterment charges shall be leviable, or from such date as may be otherwise specified by the Collector in appeal under section 53 or by the State Government in revision under section 54 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on the land in respect of which such betterment charges are leviable.

Payment of betterment charges.

56A. The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 70 :

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed by rules.

Relinquishment or exchange of land in lieu of the payment of betterment charges.

56B. Notwithstanding anything contained in section 56A, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the State Government on such conditions as may be prescribed by rules :

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

Irrigation cess.

Levy of irrigation cess.

56C. In addition to the water rates or other charges leviable under the provisions of this Act, there shall be levied in respect of land under irrigable command of a canal, a cess called ' the irrigation cess '.

Liability for irrigation cess.

56D. (*1*) In the case of unalienated land the occupant, and in the case of alienated land, the superior holder, shall be primarily liable to the State Government for the payment of the irrigation cess, inclusive of all arrears of such cess.

(*2*) In the case of default by any person who is primarily liable under this section, the irrigation cess including all arrears as aforesaid shall be recoverable from any person in possession of the land :

Provided that where the irrigation cess is recovered under this section from a person who is not primarily liable for the same, such person shall be allowed credit for any payments which he may have duly made to the person who is primarily liable, and shall be entitled to credit, for the amount recovered from him, in account with the person who is primarily liable.

Rate and period of irrigation cess.

56E. (*1*) The irrigation cess payable in respect of any land under the irrigable command of a canal shall be at such rates and for such period as may be fixed by the State Government by notification in the *Official Gazette*.

(*2*) The determination of such rates and period shall be final and shall not be questioned in any court of law :

Provided that no increase shall be made during such period in the rates so fixed.

Date for payment of irrigation cess.

56F. The irrigation cess recoverable in respect of any land shall be leviable on the date on which the land revenue is leviable in respect thereof."

Amendment of section 57 of Bom. VII of 1879.

5. In section 57 of the said Act, in sub-section (*2*), the following paragraph shall be added at the end, namely :—

" The amount of the betterment charges or any of its instalments together with interest thereon, if not paid on the date specified in section 56A and the amount of the irrigation cess if not paid on the date specified in section 56F shall be deemed to be an arrear of land revenue due on account of the land in respect of which it is payable and shall also be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879, including the forfeiture of the said land." Bom. V of 1879.

Amendment of section 70 of Bom. VII of 1879.

6. In section 70 of the said Act, after clause (*d*), the following shall be inserted, namely :—

" (*d1*) the other manner in which a scheme shall be published under section 50 ;

(*d2*) the date for payment of, the rate of interest on and the period within which the instalments of betterment charges shall be paid under section 56A ;

(*d3*) the suspension or remission of betterment charges, the instalments thereof and the interest thereon ;

(*d4*) the conditions subject to which the relinquishment or exchange of lands shall be permitted under section 56B ;

(*d5*) the division into zones of lands under the irrigable command of a canal for the purpose of the betterment charges leviable on such lands ; "

7. In section 73 of the said Act, in clause (*a*) of sub-section (*1*) and in sub-section (*3*), after the word " river," the words " well, tube well, artesian well," shall be inserted. Amendment of section 73 of Bom. VII of 1879.

8. In section 75 of the said Act, in sub-section (*1*), after the word and figure " Part V " the following shall be inserted, namely :— Amendment of section 75 of Bom. VII of 1879.

" sections 49 to 56F (both inclusive), section 57,".

STATEMENT OF OBJECTS AND REASONS.

The problem of making Major Irrigation Works in the Bombay State financially self-supporting has engaged the attention of Government for a long time past. The recommendations made in this connection in 1938 in the Report of the Visvesvaraya Irrigation Inquiry Committee were considered by Government and orders passed thereon. But as the war intervened, no new Major Irrigation Projects were undertaken and these orders remained unimplemented. The programme of Post-War Major Irrigation Works drawn up by the present Government made it necessary to pursue the question of putting the projects on a sound financial basis and a Cabinet Sub-Committee consisting of the Honourable Dr. M. D. D. Gilder, the Honourable Shri V. L. Mehta and the Honourable Shri M. P. Patil was appointed in April 1947 to consider the question. After prolonged deliberations, the Committee prepared its Report, in which it was recommended that in order to stabilise the financial condition of the existing Major Irrigation Works and to enable Government to execute speedily future Irrigation projects, it was necessary to introduce a combined system of Betterment Levy and Irrigation Cess coupled with adequate water rates.

2. Betterment levy or charges is a tax on the unearned increment in land values following the construction of an Irrigation Project. The Committee recommended that this levy should be imposed on irrigable lands under all new Major Irrigation Projects to be executed, and that it should be so pitched as to enable Government to recover 50 per cent. of the unearned increase in value of land.

In the case of existing Major Irrigation Works which were constructed many years ago, the lands had already changed hands at increased prices and it would not be fair to the present land-owners, who purchased them at the increased prices, to part with a portion of the unearned increased value of land, which had not actually accrued to them. The Committee therefore recommended that the Betterment Levy should be imposed only in the case of new projects. Power has, however, been taken to levy Betterment charges in case of improvement or extension of existing canals, which bring new area under command.

3. Irrigation Cess is a small annual fee to be paid by every land-owner under the irrigable command of a canal for the facility he has of obtaining water supply for his fields and is primarily meant to meet the working expenses of the canal. The Committee recommended the levy of this cess at Rs. 3 per acre on lands under irrigable command in the perennial zone and at Re. 1-8-0 per acre on lands under irrigable command in the non-perennial zone on each of the existing as well as future canal system. If the Irrigation Cess is levied on a new Major Irrigation Work as soon as irrigation starts on it, it is likely that payment of water rates, the irrigation cess and the instalment of betterment charges, coupled with the extra expenditure to be incurred by the land-holders may make the cultivators averse to irrigation. Moreover, in the case of a new irrigation work, the irrigable area will have to be determined, and revenue as well as expenditure will have to be estimated. It has therefore been decided that the "Irrigation Cess" should be levied on a new Major Irrigation Work after three years from the commencement of irrigation on the work, during which period the irrigation administration would be stabilised, people would get accustomed to irrigation and conditions would generally settle down.

Water rates are charges paid for the actual use of water and are primarily meant to meet the interest charges on the capital invested on an Irrigation Project. The Committee's recommendations in regard to Water Rates have been considered and dealt with separately.

4. The Committee's Report was published in December 1948 for eliciting public opinion thereon, and the views of Irrigators' Associations were specially invited through the local officers. After careful consideration of the Report and the views thereon conveyed to Government, the recommendations in regard to Betterment levy or charges and Irrigation Cess contained in the Report which relate exclusively to Major Irrigation Projects have been accepted by Government and the present Bill is designed to give effect to those recommendations. The rules to be notified under the proposed enactment will detail the procedure to be observed in giving effect to the different sections of the Act, and to the recommendations of the Cabinet Sub-Committee that the canal system should be divided, for purposes of Betterment levy or charges into 4 zones: (1) Perennial Zone fit for money crops, (2) Rest of the Perennial Zone, (3) Eight months, (4) Monsoon.

5. In certain cases, irrigation from minor irrigation works and wells can be as profitable as that under major canals and Government has decided that the opportunity should be taken to include tube wells and similar sources of water in minor irrigation works and that power should be taken to levy Betterment charges on land irrigated from minor irrigation works constructed by Government. The question of actual levy of Betterment charges on a minor irrigation work would depend on the merits of the case. Clauses 7 and 8 of the draft bill are intended to carry out this object.

Notes on Clauses.

The Bill takes the form of an amendment to the Bombay Irrigation Act, 1879 (Bom. VII of 1879) and the principal clause viz. 4 relating to Betterment Charges and Irrigation Cess is intended, for insertion in the Act, of section 49 to 56F (which in the original Act of 1879 related to protection rates and were repealed in 1880). Consequential amendments of the sections of the Act relating to the "Interpretation" (Section 3), "Recovery" (Section 57), "Rules" (Section 70), "Second Class Irrigation Works" (Sections 73 and 75) have also been included as clauses 2, 5, 6,

7 and 8 while clause 3 relates to the heading of Part VI of the Act. The provisions in the Bill as to recovery of betterment charges etc. are based on the relevant provisions of the Land Revenue Code.

Section 49—relates to the preparation by an officer specially empowered of a scheme showing lands under the irrigable command of a canal and the betterment charges to be levied thereon.

Section 50—provides for publication of the scheme and for notice to the land-owners inviting objections before a specified date.

Section 51—the officer holds a formal enquiry, as provided in the Land Revenue Code and after hearing objections makes an award specifying the lands, the increase in their value, the betterment charges leviable and the date from which they are leviable.

The proviso to the section exempts from betterment charges "kharaba" i.e., unarable land.

Section 52—describes how the increase in the value of land and betterment charges are to be computed.

Sections 53 and 54—provide for an appeal to the Collector against the award and for revision by the State Government.

Section 55—gives finality to the award, as amended in appeal or revision.

Section 56—provides that betterment charges shall be, after the land revenue, a first charge on the land.

Section 56-A—provides that the Collector may fix dates for payment of the betterment charges and also provides for payment in instalments, subject to rules.

Section 56-B—provides, subject to rules, for relinquishment or exchange of land, on which betterment charges are leviable.

Sections 56-C to 56-F—relate to Irrigation Cess. Section 56-C provides for levy of the cess, while section 56-D defines the liability for the cess. Section 56-E relates to the rates of irrigation cess and the guarantee period, which are to be prescribed by rules, on lines of the water-rate under the Irrigation Act. Under section 56-F the irrigation cess is payable along with the land revenue.

(Signed) JIVRAJ N. MEHTA.

Dated the 23rd September 1950.

By order of the Governor of Bombay,

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

Poona, dated the 26th September 1950.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XLIV OF 1950.

A Bill to amend the Bombay Irrigation Act, 1879.

(As read for the third time and passed by the Legislative Assembly on the 25th October 1950.)

Bom. VII of 1879. WHEREAS it is expedient to amend the Bombay Irrigation Act, 1879, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Bombay Irrigation (Amendment) Act, 1950. Short title.

No-III Bk Hb 330—1

Amendment of section 3 of Bom. VII of 1879.

2. In section 3 of the Bombay Irrigation Act, 1879 (hereinafter called the said Act), after clause (6) the following shall be inserted, namely :— Bom. VII of 1879.

"(6A) 'lands under irrigable command of a canal' means such lands as are irrigated or capable of being irrigated from the canal, being under its command and shall include also such lands as are or shall be deemed to be irrigated within the meaning of section 48 ; ".

Amendment of heading after section 43 of Bom. VII of 1879.

3. After section 43 of the said Act, for the heading " Part VI—Of Water-Rates " the following shall be substituted, namely :—

" PART VI.

Water rates, betterment charges and irrigation cess ".

Insertion of new sections 49 to 56-F in Bom. VII of 1879.

4. After section 48 of the said Act, the following headings and sections shall be inserted, namely :—

" *Betterment Charges.*

Scheme of irrigable lands under command and betterment charges on construction or improvement, etc., of a canal.

49. When the construction of a new canal or the improvement or extension of an existing canal is undertaken, the State Government shall direct an officer empowered in this behalf to prepare a scheme showing the lands under the irrigable command of the canal and the betterment charges leviable on such lands.

Publication of scheme and notice to owners and persons interested.

50. (*1*) The scheme so prepared shall be published in the *Official Gazette* and in such other manner as may be prescribed by rules.

(*2*) The officer empowered under section 49 shall also give notice to the persons known or believed to be the owners of or interested in the lands under irrigable command of the canal requiring them to appear before him either personally or by agent at a time and the place therein mentioned (such time not being earlier than one month from the date of the notice) to state their objections, if any,—

(*a*) to the inclusion of the lands in the scheme as the lands under irrigable command of the canal, and

(*b*) to the imposition and recovery of the betterment charges on such lands.

Inquiry and award.

51. On the date fixed under section 50 or on such other date to which the inquiry may be adjourned, the officer concerned shall, after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after hearing the objections, if any, stated by the persons as required by notice under section 50, make an award. The award shall specify— Bom. V of 1879.

(*a*) the lands under irrigable command of the canal,

(*b*) the increase in value of such lands by the completion of the construction of a new canal or the improvement or extension of an existing canal,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the date from which such betterment charges shall be leviable :

Provided that no betterment charges shall be leviable in respect of any land which is unarable (kharaba).

Increase in value and betterment charges.

52. The increase in value on account of the completion of a new canal or the improvement or extension of an existing canal shall be the amount by which the value of the land on the completion date is likely to exceed the value of the land on the construction date and the betterment charges shall be one-half of such increase in value.

Explanation.—For the purposes of this section the State Government shall, by notification in the *Official Gazette*, specify—

(*a*) the date of the commencement of construction of any work in connection with the construction or improvement or extension of a canal, as the construction date ;

(*b*) the date of completion of the construction, improvement or extension of a canal as the completion date.

Appeals to the Collector.

53. (*1*) Any person aggrieved by the award may, within sixty days from the date of the award, appeal to the Collector.

Bom. V of 1879.

(*2*) The provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, shall apply to such appeals, as if the officer empowered under section 49 was a Revenue Officer and the Collector was his immediate superior.

Revision by State Government.

54. The State Government may call for and examine the record of any inquiry under section 51 or of the proceedings in appeal under section 53 for the purpose of satisfying itself of legality or regularity of such inquiry or proceedings and may modify or reverse the award or the decision of the Collector.

Finality of orders of State Government, Collector's decision and award.

55. Any order passed by the State Government in revision under section 54 and subject to such order, the decision of the Collector on appeal under section 53, and subject to the order of the State Government and the decision of the Collector on appeal, the award made under section 51 shall be final.

Betterment charges to be first charged on land next to land revenue.

56. From the date specified in the award as the date from which the betterment charges shall be leviable, or from such date as may be otherwise specified by the Collector in appeal under section 53 or by the State Government in revision under section 54 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on the land in respect of which such betterment charges are leviable.

Payment of betterment charges.

56A. The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 70 :

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed by rules.

Relinquishment or exchange of land in lieu of the payment of betterment charges.

56B. Notwithstanding anything contained in section 56A, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the State Government on such conditions as may be prescribed by rules :

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

Irrigation cess.

Levy of irrigation cess.

56C. In addition to the water rates or other charges leviable under the provisions of this Act, there shall be levied in respect of land under irrigable command of a canal, a cess called ' the irrigation cess '.

Liability for irrigation cess.

56D. (*1*) In the case of unalienated land the occupant, and in the case of alienated land, the superior holder, shall be primarily liable to the State Government for the payment of the irrigation cess, inclusive of all arrears of such cess.

(*2*) In the case of default by any person who is primarily liable under this section, the irrigation cess including all arrears as aforesaid shall be recoverable from any person in possession of the land :

Provided that where the irrigation cess is recovered under this section from a person who is not primarily liable for the same, such person shall be allowed credit for any payments which he may have duly made to the person who is primarily liable, and shall be entitled to credit, for the amount recovered from him, in account with the person who is primarily liable.

Rate and period of irrigation cess.

56E. (*1*) The irrigation cess payable in respect of any land under the irrigable command of a canal shall be at such rates and for such period as may be fixed by the State Government by notification in the *Official Gazette*.

(*2*) The determination of such rates and period shall be final and shall not be questioned in any court of law :

Provided that no increase shall be made during such period in the rates so fixed.

Date for payment of irrigation cess.

56F. The irrigation cess recoverable in respect of any land shall be leviable on the date on which the land revenue is leviable in respect thereof.".

Amendment of section 57 of Bom. VII of 1879.

5. In section 57 of the said Act, in sub-section (*2*), the following paragraph shall be added at the end, namely :—

" The amount of the betterment charges or any of its instalments together with interest thereon, if not paid on the date specified in section 56A and the amount of the irrigation cess if not paid on the date specified in section 56F shall be deemed to be an arrear of land revenue due on account of the land in respect of which it is payable and shall also be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879, including the forfeiture of the said land.". Bom. V of 1879.

Amendment of section 70 of Bom. VII of 1879.

6. In section 70 of the said Act, after clause (*d*), the following shall be inserted, namely :—

"(*d1*) the other manner in which a scheme shall be published under section 50 ;

(*d2*) the date for payment of, the rate of interest on and the period within which the instalments of betterment charges shall be paid under section 56A ;

(*d3*) the suspension or remission of betterment charges, the instalments thereof and the interest thereon ;

(*d4*) the conditions subject to which the relinquishment or exchange of lands shall be permitted under section 56B ;

(*d5*) the division into zones of lands under the irrigable command of a canal for the purpose of the betterment charges leviable on such lands ; ".

Amendment of section 73 of Bom. VII of 1879.

7. In section 73 of the said Act, in clause (*a*) of sub-section (*1*) and in sub-section (*3*), after the word " river," the words " well, tube well, artesian well," shall be inserted.

Amendment of section 75 of Bom. VII of 1879.

8. In section 75 of the said Act, in sub-section (*1*), after the word and figure " Part V " the following shall be inserted, namely :—

" sections 49 to 56F (both inclusive), section 57,".

STATEMENT OF OBJECTS AND REASONS.

The problem of making Major Irrigation Works in the Bombay State financially self-supporting has engaged the attention of Government for a long time past. The recommendations made in this connection in 1938 in the Report of the Visvesvaraya Irrigation Inquiry Committee were considered by Government and orders passed thereon. But as the war intervened, no new Major Irrigation Projects were undertaken and these orders remained unimplemented. The programme of Post-War Major Irrigation Works drawn up by the present Government made it necessary to pursue the question of putting the projects on a sound financial basis and a Cabinet Sub-Committee consisting of the Honourable Dr. M. D. D. Gilder, the Honourable Shri V. L. Mehta and the Honourable Shri M. P. Patil was appointed in April 1947 to consider the question. After prolonged deliberations, the Committee prepared its Report, in which it was recommended that in order to stabilise the financial condition of the existing Major Irrigation Works and to enable Government to execute speedily future Irrigation projects, it was necessary to introduce a combined system of Betterment Levy and Irrigation Cess coupled with adequate water rates.

2. Betterment levy or charges is a tax on the unearned increment in land values following the construction of an Irrigation Project. The Committee recommended that this levy should be imposed on irrigable lands under all new Major Irrigation Projects to be executed, and that it should be so pitched as to enable Government to recover 50 per cent. of the unearned increase in value of land.

In the case of existing Major Irrigation Works which were constructed many years ago, the lands had already changed hands at increased prices and it would not be fair to the present land-owners, who purchased them at the increased prices, to part with a portion of the unearned increased value of land, which had not actually accrued to them. The Committee therefore recommended that the Betterment Levy should be imposed only in the case of new projects. Power has, however, been taken to levy Betterment charges in case of improvement or extension of existing canals, which bring new area under command.

3. Irrigation Cess is a small annual fee to be paid by every land-owner under the irrigable command of a canal for the facility he has of obtaining water supply for his fields and is primarily meant to meet the working expenses of the canal. The Committee recommended the levy of this cess at Rs. 3 per acre on lands under irrigable command in the perennial zone and at Re. 1-8-0 per acre on lands under irrigable command in the non-perennial zone on each of the existing as well as future canal system. If the Irrigation Cess is levied on a new Major Irrigation Work as soon as irrigation starts on it, it is likely that payment of water rates, the irrigation cess and the instalment of betterment charges, coupled with the extra expenditure to be incurred by the land-holders may make the cultivators averse to irrigation. Moreover, in the case of a new irrigation work, the irrigable area will have to be determined, and revenue as well as expenditure will have to be estimated. It has therefore been decided that the "Irrigation Cess" should be levied on a new Major Irrigation Work after three years from the commencement of irrigation on the work, during which period the irrigation administration would be stabilised, people would get accustomed to irrigation and conditions would generally settle down.

Water rates are charges paid for the actual use of water and are primarily meant to meet the interest charges on the capital invested on an Irrigation Project. The Committee's recommendations in regard to Water Rates have been considered and dealt with separately.

4. The Committee's Report was published in December 1948 for eliciting public opinion thereon, and the views of Irrigators' Associations were specially invited through the local officers. After careful consideration of the Report and the views thereon conveyed to Government, the recommendations in regard to Betterment levy or charges and Irrigation Cess contained in the Report which relate exclusively to Major Irrigation Projects have been accepted by Government and the present Bill is designed to give effect to those recommendations. The rules to be notified under the proposed enactment will detail the procedure to be observed in giving effect to the different sections of the Act, and to the recommendations of the Cabinet Sub-Committee that the canal system should be divided, for purposes of Betterment levy or charges into 4 zones : (1) Perennial Zone fit for money crops, (2) Rest of the Perennial Zone, (3) Eight months, (4) Monsoon.

5. In certain cases, irrigation from minor irrigation works and wells can be as profitable as that under major canals and Government has decided that the opportunity should be taken to include tube wells and similar sources of water in minor irrigation works and that power should be taken to levy Betterment charges on land irrigated from minor irrigation works constructed by Government. The question of actual levy of Betterment charges on a minor irrigation work would depend on the merits of the case. Clauses 7 and 8 of the draft bill are intended to carry out this object.

Notes on Clauses.

The Bill takes the form of an amendment to the Bombay Irrigation Act, 1879 (Bom. VII of 1879) and the principal clause viz. 4 relating to Betterment Charges and Irrigation Cess is intended, for insertion in the Act, of section 49 to 56F (which in the original Act of 1879 related to protection rates and were repealed in 1880). Consequential amendments of the sections of the Act relating to the "Interpretation" (Section 3), "Recovery" (Section 57), "Rules" (Section 70), "Second Class Irrigation Works" (Sections 73 and 75) have also been included as clauses 2, 5, 6, 7 and 8 while clause 3 relates to the heading of Part VI of the Act. The provisions in the Bill as to recovery of betterment charges etc. are based on the relevant provisions of the Land Revenue Code.

Section 49—relates to the preparation by an officer specially empowered of a scheme showing lands under the irrigable command of a canal and the betterment charges to be levied thereon.

Section 50—provides for publication of the scheme and for notice to the landowners inviting objections before a specified date.

Section 51—the officer holds a formal enquiry, as provided in the Land Revenue Code and after hearing objections makes an award specifying the lands, the increase in their value, the betterment charges leviable and the date from which they are leviable.

The proviso to the section exempts from betterment charges "kharaba" i.e., unarable land.

Section 52—describes how the increase in the value of land and betterment charges are to be computed.

Sections 53 and 54—provide for an appeal to the Collector against the award and for revision by the State Government.

Section 55—gives finality to the award, as amended in appeal or revision.

Section 56—provides that betterment charges shall be, after the land revenue, a first charge on the land.

Section 56-A—provides that the Collector may fix dates for payment of the betterment charges and also provides for payment in instalments, subject to rules.

Section 56-B—provides, subject to rules, for relinquishment or exchange of land, on which betterment charges are leviable.

Sections 56-C to 56-F—relate to Irrigation Cess. Section 56-C provides for levy of the cess, while section 56-D defines the liability for the cess. Section 56-E relates to the rates of irrigation cess and the guarantee period, which are to be prescribed by rules, on lines of the water-rate under the Irrigation Act. Under section 56-F irrigation cess is payable along with the land revenue.

JIVRAJ N. MEHTA.

Dated the 23rd September 1950.

BO-VI Bk Hb 330—2

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XLIV OF 1950.]

(As read for the third time and passed by the Legislative Assembly on the 25th October 1950.)

A Bill to amend the Bombay Irrigation Act, 1879.

[Dr. JIVRAJ N. MEHTA, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XLIV OF 1950.

A Bill to amend the Bombay Irrigation Act, 1879.

(As read for the third time and passed by the Legislative Assembly on the 25th October 1950.)

(As read for the third time and passed by the Legislative Council on the 26th October 1950.)

Bom. VII of 1879. WHEREAS it is expedient to amend the Bombay Irrigation Act, 1879, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Bombay Irrigation (Amendment) Act, 1950. Short title.

ve-m Bk Hb 344—1

Amendment of section 3 of Bom. VII of 1879.

2. In section 3 of the Bombay Irrigation Act, 1879 (hereinafter called the said Act), after clause (6) the following shall be inserted, namely :— Bom. VII of 1879.

" (6A) ' lands under irrigable command of a canal ' means such lands as are irrigated or capable of being irrigated from the canal, being under its command and shall include also such lands as are or shall be deemed to be irrigated within the meaning of section 48 ; ".

Amendment of heading after section 43 of Bom. VII of 1879.

3. After section 43 of the said Act, for the heading " Part VI—Of Water-Rates " the following shall be substituted, namely :—

" PART VI.

Water rates, betterment charges and irrigation cess ".

Insertion of new sections 49 to 56-F in Bom. VII of 1879.

4. After section 48 of the said Act, the following headings and sections shall be inserted, namely :—

" *Betterment Charges.*

Scheme of irrigable lands under command and betterment charges on construction or improvement, etc., of a canal.

49. When the construction of a new canal or the improvement or extension of an existing canal is undertaken, the State Government shall direct an officer empowered in this behalf to prepare a scheme showing the lands under the irrigable command of the canal and the betterment charges leviable on such lands.

Publication of scheme and notice to owners and persons interested.

50. (*1*) The scheme so prepared shall be published in the *Official Gazette* and in such other manner as may be prescribed by rules.

(*2*) The officer empowered under section 49 shall also give notice to the persons known or believed to be the owners of or interested in the lands under irrigable command of the canal requiring them to appear before him either personally or by agent at a time and the place therein mentioned (such time not being earlier than one month from the date of the notice) to state their objections, if any,—

(*a*) to the inclusion of the lands in the scheme as the lands under irrigable command of the canal, and

(*b*) to the imposition and recovery of the betterment charges on such lands.

Inquiry and award.

51. On the date fixed under section 50 or on such other date to which the inquiry may be adjourned the officer concerned shall, after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after hearing the objections, if any, stated by the persons as required by notice under section 50, make an award. The award shall specify— Bom. V of 1879.

(*a*) the lands under irrigable command of the canal,

(*b*) the increase in value of such lands by the completion of the construction of a new canal or the improvement or extension of an existing canal,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the date from which such betterment charges shall be leviable :

Provided that no betterment charges shall be leviable in respect of any land which is unarable (kharaba).

Increase in value and betterment charges.

52. The increase in value on account of the completion of a new canal or the improvement or extension of an existing canal shall be the amount by which the value of the land on the completion date is likely to exceed the value of the land on the construction date and the betterment charges shall be one-half of such increase in value.

Explanation.—For the purposes of this section the State Government shall, by notification in the *Official Gazette*, specify—

(*a*) the date of the commencement of construction of any work in connection with the construction or improvement or extension of a canal, as the construction date ;

(*b*) the date of completion of the construction, improvement or extension of a canal as the completion date.

Appeals to the Collector.

53. (*1*) Any person aggrieved by the award may, within sixty days from the date of the award, appeal to the Collector.

Bom. V of 1879.

(*2*) The provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, shall apply to such appeals, as if the officer empowered under section 49 was a Revenue Officer and the Collector was his immediate superior.

Revision by State Government.

54. The State Government may call for and examine the record of any inquiry under section 51 or of the proceedings in appeal under section 53 for the purpose of satisfying itself of legality or regularity of such inquiry or proceedings and may modify or reverse the award or the decision of the Collector.

Finality of orders of State Government, Collector's decision and award.

55. Any order passed by the State Government in revision under section 54 and subject to such order, the decision of the Collector on appeal under section 53, and subject to the order of the State Government and the decision of the Collector on appeal, the award made under section 51 shall be final.

Betterment charges to be first charged on land next to land revenue.

56. From the date specified in the award as the date from which the betterment charges shall be leviable, or from such date as may be otherwise specified by the Collector in appeal under section 53 or by the State Government in revision under section 54 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on the land in respect of which such betterment charges are leviable.

Payment of betterment charges.

56A. The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 70 :

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed by rules.

Relinquishment or exchange of land in lieu of the payment of betterment charges.

56B. Notwithstanding anything contained in section 56A, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the State Government on such conditions as may be prescribed by rules :

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

Irrigation cess.

Levy of irrigation cess.

56C. In addition to the water rates or other charges leviable under the provisions of this Act, there shall be levied in respect of land under irrigable command of a canal, a cess called ' the irrigation cess '.

Liability for irrigation cess.

56D. (*1*) In the case of unalienated land the occupant, and in the case of alienated land, the superior holder, shall be primarily liable to the State Government for the payment of the irrigation cess, inclusive of all arrears of such cess.

(*2*) In the case of default by any person who is primarily liable under this section, the irrigation cess including all arrears as aforesaid shall be recoverable from any person in possession of the land :

Provided that where the irrigation cess is recovered under this section from a person who is not primarily liable for the same, such person shall be allowed credit for any payments which he may have duly made to the person who is primarily liable, and shall be entitled to credit, for the amount recovered from him, in account with the person who is primarily liable.

Rate and period of irrigation cess.

56E. (*1*) The irrigation cess payable in respect of any land under the irrigable command of a canal shall be at such rates and for such period as may be fixed by the State Government by notification in the *Official Gazette*.

(*2*) The determination of such rates and period shall be final and shall not be questioned in any court of law :

Provided that no increase shall be made during such period in the rates so fixed.

Date for payment of irrigation cess.

56F. The irrigation cess recoverable in respect of any land shall be leviable on the date on which the land revenue is leviable in respect thereof.".

Amendment of section 57 of Bom. VII of 1879.

5. In section 57 of the said Act, in sub-section (*2*), the following paragraph shall be added at the end, namely :—

" The amount of the betterment charges or any of its instalments together with interest thereon, if not paid on the date specified in section 56A and the amount of the irrigation cess if not paid on the date specified in section 56F shall be deemed to be an arrear of land revenue due on account of the land in respect of which it is payable and shall also be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879, including the forfeiture of the said land.". Bom. V of 1879.

Amendment of section 70 of Bom. VII of 1879.

6. In section 70 of the said Act, after clause (*d*), the following shall be inserted, namely :—

" (*d1*) the other manner in which a scheme shall be published under section 50 ;

(*d2*) the date for payment of, the rate of interest on and the period within which the instalments of betterment charges shall be paid under section 56A ;

259

(*d3*) the suspension or remission of betterment charges, the instalments thereof and the interest thereon ;

(*d4*) the conditions subject to which the relinquishment or exchange of lands shall be permitted under section 56B ;

(*d5*) the division into zones of lands under the irrigable command of a canal for the purpose of the betterment charges leviable on such lands ; ".

Amendment of section 73 of Bom. VII of 1879.

7. In section 73 of the said Act, in clause (*a*) of sub-section (*1*) and in sub-section (*3*), after the word " river," the words " well, tube well, artesian well," shall be inserted.

Amendment of section 75 of Bom. VII of 1879.

8. In section 75 of the said Act, in sub-section (*1*), after the word and figure " Part V " the following shall be inserted, namely :—

" sections 49 to 56F (both inclusive), section 57,".

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XLIV OF 1950.]

(As read for the third time and passed by the Legislative Assembly on the 25th October 1950.)

(As read for the third time and passed by the Legislative Council on the 26th October 1950.)

A Bill to amend the Bombay Irrigation Act, 1879.

[Dr. Jivraj N. Mehta, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

SATURDAY, 6TH JANUARY 1951.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

CONTENTS.

	PAGES
BOMBAY ACT No. LIX OF 1950—An Act to amend the Bombay Irrigation Act, 1879 ..	1–5

The following Act of the Bombay Legislature having been assented to by the President on the 28th December 1950 is hereby published for general information.

J. R. DHURANDHAR,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. LIX OF 1950.

(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 6th January 1951.)

An Act to amend the Bombay Irrigation Act, 1879.

Bom. VII of 1879. WHEREAS it is expedient to amend the Bombay Irrigation Act, 1879, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Bombay Irrigation (Amendment) Act, 1950. Short title.

Amendment of section 3 of Bom. VII of 1879.

2. In section 3 of the Bombay Irrigation Act, 1879 (hereinafter called the said Act), after clause (6) the following shall be inserted, namely :— Bom. VII of 1879.

"(6A) 'lands under irrigable command of a canal' means such lands as are irrigated or capable of being irrigated from the canal, being under its command and shall include also such lands as are or shall be deemed to be irrigated within the meaning of section 48 ; ".

Amendment of heading after section 43 of Bom. VII of 1879.

3. After section 43 of the said Act, for the heading " Part VI—Of Water-Rates " the following shall be substituted, namely :—

" PART VI.

Water rates, betterment charges and irrigation cess ".

Insertion of new sections 49 to 56-F in Bom. VII of 1879.

4. After section 48 of the said Act, the following headings and sections shall be inserted, namely :—

" *Betterment Charges.*

Scheme of irrigable lands under command and betterment charges on construction or improvement, etc., of a canal.

49. When the construction of a new canal or the improvement or extension of an existing canal is undertaken, the State Government shall direct an officer empowered in this behalf to prepare a scheme showing the lands under the irrigable command of the canal and the betterment charges leviable on such lands.

Publication of scheme and notice to owners and persons interested.

50. (*1*) The scheme so prepared shall be published in the *Official Gazette* and in such other manner as may be prescribed by rules.

(*2*) The officer empowered under section 49 shall also give notice to the persons known or believed to be the owners of or interested in the lands under irrigable command of the canal requiring them to appear before him either personally or by agent at a time and the place therein mentioned (such time not being earlier than one month from the date of the notice) to state their objections, if any,—

(*a*) to the inclusion of the lands in the scheme as the lands under irrigable command of the canal, and

(*b*) to the imposition and recovery of the betterment charges on such lands.

Inquiry and award.

51. On the date fixed under section 50 or on such other date to which the inquiry may be adjourned, the officer concerned shall, after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, and after hearing the objections, if any, stated by the persons as required by notice under section 50, make an award. The award shall specify— Bom. V of 1879.

(*a*) the lands under irrigable command of the canal,

(*b*) the increase in value of such lands by the completion of the construction of a new canal or the improvement or extension of an existing canal,

(*c*) the amount of the betterment charges leviable on each of the said lands,

(*d*) the date from which such betterment charges shall be leviable :

Provided that no betterment charges shall be leviable in respect of any land which is unarable (kharaba).

Increase in value and betterment charges.

52. The increase in value on account of the completion of a new canal or the improvement or extension of an existing canal shall be the amount by which the value of the land on the completion date is likely to exceed the value of the land on the construction date and the betterment charges shall be one-half of such increase in value.

Explanation.—For the purposes of this section the State Government shall, by notification in the *Official Gazette*, specify—

(*a*) the date of the commencement of construction of any work in connection with the construction or improvement or extension of a canal, as the construction date ;

(*b*) the date of completion of the construction, improvement or extension of a canal as the completion date.

Appeals to the Collector.

53. (*1*) Any person aggrieved by the award may, within sixty days from the date of the award, appeal to the Collector.

Bom. V of 1879.

(*2*) The provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, shall apply to such appeals, as if the officer empowered under section 49 was a Revenue Officer and the Collector was his immediate superior.

Revision by State Government

54. The State Government may call for and examine the record of any inquiry under section 51 or of the proceedings in appeal under section 53 for the purpose of satisfying itself of legality or regularity of such inquiry or proceedings and may modify or reverse the award or the decision of the Collector.

Finality of orders of State Government, Collector's decision and award.

55. Any order passed by the State Government in revision under section 54 and subject to such order, the decision of the Collector on appeal under section 53, and subject to the order of the State Government and the decision of the Collector on appeal, the award made under section 51 shall be final.

Betterment charges to be first charged on land next to land revenue.

56. From the date specified in the award as the date from which the betterment charges shall be leviable, or from such date as may be otherwise specified by the Collector in appeal under section 53 or by the State Government in revision under section 54 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the State Government thereon, be a first charge on the land in respect of which such betterment charges are leviable.

Payment of betterment charges.

56A. The betterment charges shall be payable on the date fixed under the rules made by the State Government under section 70 :

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the State Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed by rules.

Relinquishment or exchange of land in lieu of the payment of betterment charges.

56B. Notwithstanding anything contained in section 56A, the State Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the State Government on such conditions as may be prescribed by rules :

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

Irrigation cess.

Levy of irrigation cess.

56C. In addition to the water rates or other charges leviable under the provisions of this Act, there shall be levied in respect of land under irrigable command of a canal, a cess called 'the irrigation cess'.

Liability for irrigation cess.

56D. (*1*) In the case of unalienated land the occupant, and in the case of alienated land, the superior holder, shall be primarily liable to the State Government for the payment of the irrigation cess, inclusive of all arrears of such cess.

(*2*) In the case of default by any person who is primarily liable under this section, the irrigation cess including all arrears as aforesaid shall be recoverable from any person in possession of the land:

Provided that where the irrigation cess is recovered under this section from a person who is not primarily liable for the same, such person shall be allowed credit for any payments which he may have duly made to the person who is primarily liable, and shall be entitled to credit, for the amount recovered from him, in account with the person who is primarily liable.

Rate and period of irrigation cess.

56E. (*1*) The irrigation cess payable in respect of any land under the irrigable command of a canal shall be at such rates and for such period as may be fixed by the State Government by notification in the *Official Gazette*.

(*2*) The determination of such rates and period shall be final and shall not be questioned in any court of law:

Provided that no increase shall be made during such period in the rates so fixed.

Date for payment of irrigation cess.

56F. The irrigation cess recoverable in respect of any land shall be leviable on the date on which the land revenue is leviable in respect thereof.".

Amendment of section 57 of Bom. VII of 1879.

5. In section 57 of the said Act, in sub-section (*2*), the following paragraph shall be added at the end, namely:—

"The amount of the betterment charges or any of its instalments together with interest thereon, if not paid on the date specified in section 56A and the amount of the irrigation cess if not paid on the date specified in section 56F shall be deemed to be an arrear of land revenue due on account of the land in respect of which it is payable and shall also be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879, including the forfeiture of the said land.".

Amendment of section 70 of Bom. VII of 1879.

6. In section 70 of the said Act, after clause (*d*), the following shall be inserted, namely:—

"(*d1*) the other manner in which a scheme shall be published under section 50;

(*d2*) the date for payment of, the rate of interest on and the period within which the instalments of betterment charges shall be paid under section 56A;

(*d3*) the suspension or remission of betterment charges, the instalments thereof and the interest thereon ;

(*d4*) the conditions subject to which the relinquishment or exchange of lands shall be permitted under section 56B ;

(*d5*) the division into zones of lands under the irrigable command of a canal for the purpose of the betterment charges leviable on such lands ; ".

Amendment of section 73 of Bom. VII of 1879.

7. In section 73 of the said Act, in clause (*a*) of sub-section (*1*) and in sub-section (*3*), after the word " river," the words " well, tube well, artesian well," shall be inserted.

Amendment of section 75 of Bom. VII of 1879.

8. In section 75 of the said Act, in sub-section (*1*), after the word and figure " Part V " the following shall be inserted, namely :—

" sections 49 to 56F (both inclusive), section 57,".

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.